



06-18-04

PTO/SB/30 (09-03)

RCE/1644  
5F8

Request  
For  
Continued Examination (RCE)  
Transmittal

Address to:  
Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Application Number	09/919,224
Filing Date	July 30, 2001
First Named Inventor	Thomas J. Schall
Art Unit	1644
Examiner Name	Belyavskiy, Michail A.
Attorney Docket Number	019934-001710US

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**  
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- ii. ☐ Other \_\_\_\_\_
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/ Declaration(s)
- iii. ☒ Information Disclosure Statement (IDS)
- iv. ☐ Other \_\_\_\_\_
2. Miscellaneous
- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other \_\_\_\_\_
3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 20-1430
- i. ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☐ Other \_\_\_\_\_
- b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)
- WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization of PTO-2038.

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print /Type)	Scott L. Ausenbus	Registration No. (Attorney/Agent)	42,271
Signature	<i>Scott Ausenbus</i>	Date	6-16-04

**CERTIFICATE OF MAILING OR TRANSMISSION**

Express Mail Label: EV 291376372 US

I hereby certify that this correspondence is being deposited with the United States Postal Service with "Express Mail Post Office to Address" service under 37 CFR 1.10 on this date January 28, 2004 and is addressed to:

Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Name (Print /Type)	Tara N. Damhoff		
Signature	<i>Tara N. Damhoff</i>	Date	6-16-04

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## Instruction Sheet for RCEs

(not to be submitted to the USPTO)

### NOTES:

An RCE is not a new application, and filing an RCE will not result in an application being accorded a new filing date.

#### **Filing Qualifications:**

The application must be a utility or plant application filed on or after June 8, 1995. The application cannot be a provisional application, a utility or plant application filed before June 8, 1995, a design application, or a patent under reexamination. See 37 CFR 1.114(e).

#### **Filing Requirements:**

***Prosecution in the application must be closed.*** Prosecution is closed if the application is under appeal, or the last Office action is a final action, a notice of allowance, or an action that otherwise closes prosecution in the application (e.g., an Office action under *Ex parte Quayle*). See 37 CFR 1.114(b).

***A submission and a fee are required at the time the RCE is filed.*** If reply to an Office action under 35 U.S.C. 132 is outstanding (e.g., the application is under final rejection), the submission must meet the reply requirements of 37 CFR 1.111. If there is no outstanding Office action, the submission can be an information disclosure statement, an amendment, new arguments, or new evidence. See 37 CFR 1.114(c). The submission may be a previously filed amendment (e.g., an amendment after final rejection).

### WARNINGS:

#### **Request for Suspension of Action:**

All RCE filing requirements must be met before suspension of action is granted. A request for a suspension of action under 37 CFR 1.103(c) does not satisfy the submission requirement and does not permit the filing of the required submission to be suspended.

#### **Improper RCE will NOT toll Any Time Period:**

***Before Appeal*** – If the RCE is improper (e.g., prosecution in the application is not closed or the submission or fee has not been filed) and the application is not under appeal, the time period set forth in the last Office action will continue to run and the application will be abandoned after the statutory time period has expired if a reply to the Office action is not timely filed. No additional time will be given to correct the improper RCE.

***Under Appeal*** – If the RCE is improper (e.g., the submission or the fee has not been filed) and the application is under appeal, the improper RCE is effective to withdraw the appeal. Withdrawal of the appeal results in the allowance or abandonment of the application depending on the status of the claims. If there are no allowed claims, the application is abandoned. If there is at least one allowed claim, the application will be passed to issue on the allowed claim(s). See MPEP 1215.01.

**See MPEP 706.07(h) for further information on the RCE practice.**

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Date of Deposit 6.16.04

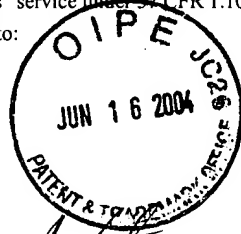
**AMENDMENT UNDER 37 CFR 1.116  
EXPEDITED PROCEDURE –  
EXAMINING GROUP 1644**

I hereby certify that this is being deposited with the United States Postal Service "Express Mail Post Office to Address" service under 37 CFR 1.10 on the date indicated above and is addressed to:

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By: Tara N. Danhoff

Tara N. Danhoff



PATENT

Attorney Docket No.: 019934-001710US

Client Ref. No.: T001710US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Thomas J. Schall et al.

Application No.: 09/919,224

Filed: July 30, 2001

For: IMMUNOLOGIC ACTIVITIES OF  
RHESUS CYTOMEGALOVIRUS  
ENCODED IL-10 (AMENDED)

Customer No.: 20350

Confirmation No. 5559

Examiner: Michail A. Belyavskyi

Art Unit: 1644

**AMENDMENT UNDER 37 CFR 1.116  
EXPEDITED PROCEDURE EXAMINING  
GROUP 1644**

**Mail Stop RCE**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

This paper is filed in response to the Final Office Action mailed March 9, 2004, and as part of a Request for Continued Examination (enclosed herewith). The original deadline for response was June 9, 2004. A one month petition for extension of time is enclosed, thus extending the deadline to July 9, 2004. Accordingly, this response is timely filed.

**Amendments to the Claims** are reflected in the listing of claims which begins on page 2 of this paper.

**Remarks** begin on page 7 of this paper.